

In re Patent Application of:  
**ROY**  
Serial No. 10/781,195  
Filing Date: FEBRUARY 18, 2004

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#### REMARKS

The Examiner is thanked for the thorough examination of the present application. Independent Claims 1, 7, 11 and 15 have been amended to incorporate the subject matter from their respective dependent Claims 2, 8, 12 and 16, which have been cancelled. Dependent Claims 3, 5-6, 9-10, 13-14 and 17-18 have been amended for consistency therewith. The independent claims have also been amended to correct the noted informalities, as helpfully pointed out by the Examiner. Independent Claim 11 has further been amended to recite using an adaptive polling engine module, similar to Claim 7 and 15, for example. No new matter is being added.

In view of the amendments and supporting arguments presented in detail below, it is submitted that all of the claims are patentable.

#### I. The Claimed Invention

The present invention is directed to a communications system. As recited in amended independent Claim 1, for example, the system includes at least one data storage device for storing messages for respective users, and a plurality of mobile wireless communications devices each associated with a respective user for accessing the messages stored on the at least one data storage device. The system further includes an adaptive polling engine for polling the at least one data storage device for stored messages and providing the polled messages to mobile wireless

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communications devices of respective users. The adaptive polling engine also changes a respective rate of polling for each mobile wireless communications device based upon at least one positive polling event and at least one negative polling event, where the at least one negative polling event comprises a lack of authorized communications based upon a given mobile wireless communications device being outside a wireless coverage area.

Independent Claim 7 is directed to a related adaptive polling engine. Furthermore, independent Claim 11 is directed to a related method, and independent Claim 15 is directed to a related computer-readable medium.

## **II. The Claims Are Patentable**

As noted above, independent Claims 1, 7, 11 and 15 have been amended to incorporate the subject matter of their respective dependent Claims 2, 8, 12, and 16. These dependent claims were rejected under 35 U.S.C. §103(a) over U.S. Published Patent Application No. 2003/0140092 to Caruso et al. This reference is directed to a system for adaptive notification in a data communications network. The system includes a data transport network in communication with a client and a server. The client comprises a client-side adaptive notification processor in communication with the data transport network. The server comprises a server-side adaptive notification processor in communication with the data transport network. See, e.g., paragraphs 0006-0008 of Caruso et al.

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While the Examiner correctly acknowledges that Caruso et al. does not disclose changing a respective rate of polling for each mobile wireless communications device based upon a given mobile wireless communications device being outside a wireless coverage area, the Examiner contends that this would have been obvious based upon the teaching of Caruso et al. that polling is based on registration events. For support, the Examiner points to paragraph 0020 of Caruso et al., which is reproduced below:

"[0020] Each client **155a-c** includes a client-side adaptive notification processor **180a-c**, respectively. The client-side adaptive notification processor **180a-c** may register with its associated server **120a-c** and receive adaptive notifications from its associated server **120a-c**. The client-side adaptive notification processor **180a-c** may include a client registration processor **160a-c** and a client receiver **170a-c**. The client registration processor **160a-c** may register the client **155a-c** with its associated server **120a-c** or respond to registration requests from the associated server **120a-c**. Registration may include sending one or more pieces of data of registration information for the client **155a-c** to the associated server **120a-c** at the time the client **155a-c** joins the network **110**. The client registration processor **160a-c** may also periodically resend registration information to the associated server **120a-c** as registration information within the client **155a-c** changes. The client receiver **170a-c** receives adaptive notifications and refresh interval information from the associated server **120a-c**."

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It is respectfully submitted that the Examiner mischaracterizes the teachings of Caruso et al., and that this reference fails to teach all of the recitations of the above-noted independent claims. In particular, in the Caruso et al. system it is the client devices **155** that poll servers **120**. See, e.g., paragraphs 0023 and 0026 of Caruso et al. In stark contrast, the above-noted independent claims recite an adaptive polling engine (or polling engine module) for polling the at least one data storage device for stored messages and providing the polled messages to mobile wireless communications devices of respective users. That is, the adaptive polling engine which performs polling is separate from the client devices, i.e., the mobile wireless communications devices.

Additionally, regarding the Examiner's contention that changing a rate of polling for each mobile wireless communications device based upon a given mobile wireless device being outside a wireless coverage area would have been obvious in view of paragraph 0020 of Caruso et al., this paragraph merely teaches how clients become "active" in the network. As discussed in paragraph 0015 of Caruso et al., this system is primarily concerned with client devices that communicate with servers over the Internet, wide area networks, and/or local area networks. This is why Caruso et al. does not teach or even contemplate how to address intermittent loss of communications with a mobile wireless communications device resulting from the device being outside a wireless coverage area.

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As such, Caruso et al. fails to teach or fairly suggest all of the recitations of the above-noted independent claims as amended. Since the remaining prior art of record fails to properly provide the above-noted deficiencies, these claims are patentable. To find otherwise would require the impermissible use of the claimed invention in hindsight as a roadmap or template to piece together the teachings of the prior art.

Accordingly, it is submitted that independent Claims 1, 7, 11 and 15 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

#### CONCLUSION

In view of the amendments to the claims and the arguments provided herein, it is submitted that all the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

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Respectfully submitted,

A handwritten signature in cursive script, reading "John F. Woodson II". The signature is written in dark ink and is positioned above a horizontal line.

JOHN F. WOODSON, II  
Reg. No. 45,236  
Allen, Dyer, Doppelt, Milbrath  
& Gilchrist, P.A.  
255 S. Orange Avenue, Suite 1401  
Post Office Box 3791  
Orlando, Florida 32802  
407-841-2330  
Attorney for Applicant